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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,619	11/25/2003	Donald R. Runyan		7716

7590 05/11/2007  
Donald R. Runyan  
18559 Dolores Avenue  
Lathrup Village, MI 48076

EXAMINER
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SHAH, PARAS D

ART UNIT	PAPER NUMBER
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2609

MAIL DATE	DELIVERY MODE
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05/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/721,619

Applicant(s)

RUNYAN, DONALD R.

Examiner

Paras Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to the Application filed on 11/25/3003.

#### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

#### ***Drawings***

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

#### ***Claim Objections***

4. Claim 1 objected to because of the following informalities: The term "parites" should be parties in line 8. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The applicant claims a product and method in the same claim, which is indefinite. See MPEP 2173.05(p) [R-5] section II. For purposes of compact prosecution, the claims were interpreted as being an apparatus (product) claim.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device, must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 1, the claim is directed to neither a process nor a product but rather embraces or overlaps two different statutory classes of invention. See MPEP 2173.05(p) [R-5], section II.

As to claim 1 is rejected under 35 U.S.C 101, computer programs per se are abstract ideas and when not combined with physical structures are non-statutory. See MPEP 2106.01. [R-5]. Further, computer program does not fall under the statutory category of system and methods and is unpatentable as recited by the Applicant in lines 4 and 6.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Culbreth *et al.* (US 5,953,393).

As to claim 1, Culbreth *et al.* discloses a system including a set of stored telephone numbers, public telephone system connection hardware, a scripted call flow, prerecorded audio scripts, automated speech recognition software, called party utterances, computer stored grammars of possible called party utterances, a computer program to manage the entire process, and a database for storing data, with said system and method "wherein the improvement comprises" using a computer program

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(see col. 8, lines 6-16) to manage the process of placing outbound calls to a set of stored telephone numbers (see col. 4, lines 36-39 and lines 45-51) (e.g. the latter citation describes the storing of the telephone numbers of the individuals to be contacted), using the public telephone system (see Figure 1, elements 100, 141, 142, and 143) (e.g. It is inherent that the telephones being used is a public telephone system as the reference refers to the telephone as telephone station (see col. 4, line 56), for the purpose of contacting parties (see 4, lines 38-40) (e.g. This is an example message for the contacting of parties as stated by the reference and Figure 1), to deliver prerecorded information (see col. 4, lines 48-49) (e.g. The storing of the message and then the delivery is equivalent to a pre-recorded message) to called parties and/or obtain data from called parties (see col. 4, lines 25-26) using automated speech recognition software (see col. 4, lines 24-27) to determine the called parties' responses (see col. 4, line 27) to prerecorded questions (see col. 4, lines 38-40 and lines 48-49) and storing the results in a database for immediate or future review (see col. 4, lines 27-28).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lubking *et al.* (US 2003/0046208) discloses a method and system for offering financial products for customers and analyzing their information.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paras Shah whose telephone number is (571)270-1650. The examiner can normally be reached on MON.-FRI. 7:30a.m.-5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571)272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.S.

04/02/2007



XIAO WU  
SUPERVISORY PATENT EXAMINER